

FILED

IN THE UNITED STATES DISTRICT COURT JUN 19 2018
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

Clerk, U.S. District Court
District Of Montana
Missoula

UNITED STATES OF AMERICA,

Cause No. CR 11-133-BLG-DLC

Plaintiff/Respondent,

VS.

NOTICE

RICHARD LYNDON MEZA,

Defendant/Movant.

On May 31, 2018, the United States filed notice that it intends to appeal the order granting Meza's motion under 28 U.S.C. § 2255.

A “district court’s order on a § 2255 petition is not final until the court resentences the petitioner.” *United States v. Martin*, 226 F.3d 1042, 1048 (9th Cir. 2000) (discussing *Andrews v. United States*, 373 U.S. 334, 339-40 (1963)); *see also*, e.g., *Haynes v. United States*, 873 F.3d 954, 956-57 (7th Cir. 2017); *United States v. Hadden*, 475 F.3d 652, 662 (4th Cir. 2007). While filing a notice of appeal generally divests a district court of jurisdiction, *see, e.g., Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (per curiam), “[t]his transfer of jurisdiction . . . is not effected . . . if a litigant files a notice of appeal from an unappealable order.” *Estate of Conners by Meredith v. O’Connor*, 6 F.3d 656, 658 (9th Cir. 1993); *Ruby v. Sec’y of the Navy*, 365 F.2d 385, 389 (9th Cir.

1966) (en banc), *cited in Griggs*, 459 U.S. at 58.

Sentencing will proceed as scheduled. The Court will enter judgment in the civil § 2255 matter when an amended judgment is entered in the criminal case. *See* Order (Doc. 210) at 21 ¶ 15.

DATED this 19th day of June, 2018.



Dana L. Christensen
Dana L. Christensen, Chief Judge
United States District Court